

### REMARKS

Claims 1-12 were examined and reported in the Office Action. Claims 1-11 are rejected. Claims 8 and 12 are cancelled. Claims 3 and 4 are amended. New claims 13-16 are added. Claims 1-7, 9-11 and 13-16 remain.

Applicant requests reconsideration of the application in view of the following remarks.

#### **I. Drawings**

It is asserted in the Office Action that the drawings are objected to under 37 CFR 1.83(a). Applicant has amended Figure 2 to overcome the 37 CFR 1.83(a) objection. Approval is respectfully requested.

#### **II. 35 U.S.C. § 112, second paragraph**

It is asserted in the Office Action that Claims 3, 4 and 8 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter. Applicant has amended claims 3 and 4. Claim 8 is cancelled.

Accordingly, withdrawal of the 35 U.S.C. § 112, second paragraph, rejection for Claims 3, 4 and 8 is respectfully requested.

#### **III. 35 U.S.C. § 102(b)**

It is asserted in the Office Action that Claims 1-5 and 9 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Application No. 1,953,105, issued to Flinker ("Flinker"). Applicant respectfully disagrees.

According to MPEP 2131, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.' (Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). 'The identical invention must be shown in as complete detail as is contained in the ... claim.' (Richardson v. Suzuki Motor Co., 868

F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. (*In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990))."

Applicant's claim 1 contains the limitations of "[a]n ink fountain apparatus for a rotary printing press, comprising: a rotatably supported ink fountain roller; an ink fountain comprised of a bottom plate with one end supported close to said ink fountain roller and a pair of ink dams standing upright from said bottom plate to correspond to two ends of said ink fountain roller and arranged to oppose in an axial direction of said ink fountain roller; at least one intermediate ink dam standing upright between said ink dams from said bottom plate, said intermediate ink dam including a first member in contact opposite to an outer surface of said ink fountain roller and said bottom plate, a second member in contact opposite to said first member, and a third member in contact opposite to said second member; press means for pressing said first member through said third and second members toward the outer surface of said ink fountain roller and toward said bottom plate; and an adjustment tool for adjusting a tight contact state of said first member with respect to at least one of the outer surface of said ink fountain roller and said bottom plate."

Applicant's claim 9 contains the limitations of " [a]n ink fountain apparatus for a rotary printing press, comprising a rotatably supported ink fountain roller, said ink fountain apparatus comprised of a bottom plate arranged at a position close to said ink fountain roller and a pair of ink dams arranged substantially perpendicular to said bottom plate and opposing each other in a widthwise direction of said bottom plate, and an intermediate ink dam arranged between said pair of ink dams, said apparatus comprising a press member which is supported movably, which moves in one direction to press said intermediate ink dam toward an outer surface of said ink fountain roller and toward said bottom plate, and which moves in the other direction to disengage from said intermediate ink dam, thereby allowing removal of said intermediate ink dam."

In other words, the press means acts on said first member through the second and third members. Therefore, the pressing force of the press means is not applied directly on the first member but through the third and second member. With this structure, a uniform pressing force can be applied to the ink fountain roller and the bottom plate even if the first member is made of an elastic material. Moreover, leakage of an ink can be prevented by pressing the first member in a direction toward the ink fountain roller and the bottom plate to allow the first member to be tightly contacted with both the ink fountain roller and the bottom plate.

Flinker discloses an ink fountain device for a printing press. It is asserted that a press means according to the Applicant's invention, that presses the first member in a direction toward the ink fountain roller and the bottom plate though the third and second member is equivalent to the coil spring 24a and the adjustment hand screw 25a as disclosed by Flinker. Applicant respectfully disagrees with this analysis. Applicant discloses a press means presses said first member through the third and second member, and the press means presses the first member against the Ink fountain roller and the bottom plate. Flinker, however, does not describe these limitations. As disclosed by Flinker, if a spring force is applied directly on a elastic body element 11a, which is similar to the first member (of Applicant's claimed invention), a problem occurs in that the pressing force does not perform on a surface that presses the ink fountain roller since the spring force is absorbed by the elastic body element 11a.

Moreover, in Applicant's claimed invention, the leakage of ink can be prevented by pressing the first member in a direction toward the ink fountain roller and the bottom plate to allow the first member to be tightly contacted with both the ink fountain roller and the bottom plate. In Flinker, however, since coil spring 24a is set inside recess 16b along the line bisecting the upper section and the lower section formed in elastic body element 11a, spring 24a merely presses the elastic body element to lie against the ink fountain roller and, therefore, does not press the element 11a against the bottom plate.

Further, although symbol 25a is described as an adjustment hand screw in Flinker, this is a screw that fixes the intermediate ink dam with respect to an ink

fountain body. Accordingly, this is not a member that moves in a direction toward the ink fountain roller and the bottom plate, and presses both the ink fountain roller and the bottom plate.

Therefore, since Flinker does not disclose, teach or suggest all of Applicant's claims 1 and 9 respective limitations, as listed above, Applicant respectfully asserts that a *prima facie* rejection under 35 U.S.C. § 102(b) has not been adequately set forth relative to Flinker. Thus, Applicant's claims 1 and 9 are not anticipated by Flinker. Additionally, the claims that depend directly or indirectly from Applicant's claim 1, namely claims 2-5, are also not anticipated by Flinker for the above same reasons.

Accordingly, withdrawal of the 35 U.S.C. § 102(b), rejections for Claims 1-5 and 9 are respectfully requested.

#### IV. 35 U.S.C. § 103(a)

A. It is asserted in the Office Action that Claim 6 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Flinker, in view of U.S. Patent No. 5,894,798, issued to Miyoshi et al. ("Miyoshi"). Applicant respectfully disagrees.

According to MPEP 2142 "[t]o establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure." (In re Vaack, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)). Further, according to MPEP 2143.03, "[t]o establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. (In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974))." "*All words in a claim must be considered in judging the patentability of that claim against the prior art.*" (In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970), *emphasis added*).

Applicant's claim 6 directly depends on Applicant's claim 1. As discussed above in section III regarding the limitations of claim 1, Flinker does not teach, disclose or suggest a press means presses said first member through the third and second member, nor that the press means presses the first member against the Ink fountain roller and the bottom plate.

Myoshi discloses an ink fountain divider. Although Miyoshi discloses that ink fountain dividing body 14 is stuck to the bottom plate of the ink fountain magnetically, Myoshi does not disclose, teach or suggest a press means presses said first member through the third and second member, nor that the press means presses the first member against the Ink fountain roller and the bottom plate. Therefore, Myoshi does not teach, disclose or suggest the limitations contained in Applicant's claim 1.

Therefore, even if Flinker and Myoshi were combined, the resulting invention would not arrive at Applicant's claimed invention since the combination would not teach, disclose or suggest a press means presses said first member through the third and second member, nor that the press means presses the first member against the Ink fountain roller and the bottom plate.

Since neither Flinker, Myoshi, nor the combination of the two, disclose, teach or suggest all the limitations contained in Applicant's claim 1, as listed above in section III, there would not be any motivation to arrive at Applicant's claimed invention. Thus, Applicant's claim 1 is not obvious over Flinker in view of Myoshi since a *prima facie* case of obviousness has not been met under MPEP 2142. Additionally, since claim 6 directly depends from Applicant's claim 1, claim 6 also contains the same limitations and is also not obvious over Flinker in view of Myoshi for the same above reason.

Accordingly, withdrawal of the 35 U.S.C. § 103(a) rejection for Claim 6 is respectfully requested.

B. It is asserted in the Office Action that Claims 7, 10 and 11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Flinker, in view of U.S. Patent No. 1,919,283, issued to Troy ("Troy"). Applicant respectfully disagrees.

Applicant's claim 7 directly depends on Applicant's claim 1. Applicant's claims 10-11 directly and indirectly depend from claim 9, respectively. As discussed above in section III regarding the limitations of claims 1 and 9, Flinker does not teach, disclose or suggest a press means presses said first member through the third and second member, nor that the press means presses the first member against the Ink fountain roller and the bottom plate.

Troy discloses a pad member used with an ink fountain divider to partition the fountain so inks of various colors can be used and fed to a fountain roller, and sent to a ductor roller so as to avoid the necessity of cutting the ductor roller. Troy discloses that adjustment screw 32 presses the divider unit to improve sealing performance between pad 10 and ink fountain roller 16. However, since screw 32 is also provided in the same direction as in Flinker, the press member can not be pressed in a direction toward the ink fountain roller and the bottom plate. Further, Troy does not disclose, teach or suggest the limitations contained in Applicant's claim "the intermediate ink dam" nor "the adjustment tool"

Therefore, even if Flinker and Troy were combined, the resulting invention would not arrive at Applicant's claimed invention since the combination would not teach, disclose or suggest a press means presses said first member through the third and second member, that the press means presses the first member against the Ink fountain roller and the bottom plate, or include an intermediate ink dam (claims 1 and 9) nor an adjustment tool (Claim 1).

Since neither Flinker, Troy, nor the combination of the two, disclose, teach or suggest all the limitations contained in Applicant's claims 1 and 9, as listed above in section III, there would not be any motivation to arrive at Applicant's claimed invention. Thus, Applicant's claims 1 and 9 are not obvious over Flinker in view of Troy since a *prima facie* case of obviousness has not been met under MPEP 2142. Additionally, since claims 7 and 10-11 either directly or indirectly depend from Applicant's claims 1 and 9, respectively, claims 7 and 10-11 also contain the same limitations and are also not obvious over Flinker in view of Troy for the same above reason.

Accordingly, withdrawal of the 35 U.S.C. § 103(a) rejection for Claims 7,10 and 11 is respectfully requested.

V. ALLOWABLE SUBJECT MATTER

A. Applicant appreciates the Examiner's assertion that Claim 8 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph and rewritten in independent form including all the limitations of the base claim and any intervening claims. Applicant has added new claim 15 that includes all the limitations of the base claim.

B. Applicant appreciates the Examiner's assertion that Claim 12 would be allowable if rewritten in independent form including all the limitations of the base and any intervening claims. Applicant has added new claim 15 that includes all the limitations of the base claim.

Applicant respectfully asserts that Claims 1-16, as it now stands, are allowable for the reasons given above.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending, namely 1-16, patentably define the subject invention over the prior art of record and are in condition for allowance and such action is earnestly solicited at the earliest possible date.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No.

02-2666 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,

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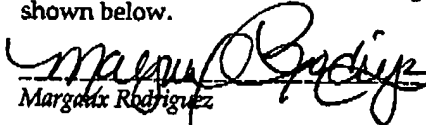
Dated: April 30, 2003

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